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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,768	11/21/2003	Susanta Datta	847-073	3283

20874 7590 06/22/2006

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EXAMINER	
TAMAI, KARL I	

ART UNIT	PAPER NUMBER
2834	

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/719,768	DATTA, SUSANTA	
	Examiner	Art Unit	
	Tamai I.E. Karl	2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 April 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *10-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *10-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 10 and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Peri (US 3750951). Peri teaches an unsealed, open motor for a dishwasher which include the steps of inserting a washing fluid into the motor (inherently washing the motor), removing the fluid, and operating the motor after draining (inherently drying and protecting against failure) (col. 5, line 40).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peri (US 3750951) and Selders (Electric Motors – Lubrication and Cleaning). Peri teaches every aspect of the invention except periodically removing the motor to be cleaned. Selders teaches disassembly of the motorized device to provide a through cleaning. It is would have been obvious to a person of ordinary skill in the art at the time of the

invention to remove the motor from the apparatus prior to cleaning to clean foreign matter from the motor, as taught by Selders.

Response to Arguments

5. Applicant's arguments filed 4/10/2006 have been fully considered but they are not persuasive. Applicant's arguments that the use in preparation of food and medicine subject to oversight by the FDA is a limitation of the claims is not persuasive. The limitation is merely statement of intended use for the electric motor assembly recited in the preamble. The examiner notes that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In the present Application, the dish washing machine is used in washing dishes is capable of use in the research, manufacture and distribution of food and drugs subject to FDA oversight. The limitation was not previously and is currently not been given patentable weight.

Applicant's argument that Perl does not teach or is disinterested in drying the motor is not persuasive. Perl clearly teaches that the motor is evacuated of water and then the air is heated by energizing the motor. It is inherent that motor that is helping to dry the dishes but it is drying the motor. Applicant's argument regarding the degree of cleaning being "perfectly cleaned" is not persuasive because the limitation is not claimed. Applicant's argument regarding the inherency of the motor being cleaned is

not persuasive. The motor is located within the dishwasher enclosure (col. 1, line 65) so that when the dishes are washed, the motor is inherently washed and Perl is prima facia evidence thereof. Furthermore, the motor includes water being circulated through the housing, such that the water and subsequent heat drying washes the motor as recited in claims 10 and 11.

Applicant's arguments regarding the cleanliness of the equipment and the inspections to confirm the cleanliness is not persuasive because the limitation is claimed. Applicant's argument to good manufacturing processes recited in 21 Code of Federal Regulations parts 210 and 211 are not persuasive because a manufacturing processes are not claimed. The cited regulation has not been considered as evidence or a prior art reference because it has not been provide by the Applicant. Applicant's arguments regarding the intended use of FDA approved food and medicine manufacture is not persuasive because it is an intended use limitation, as discussed above and has not been given patentable weight.

Applicant's argument that Selders does not provide a literal sentence stating that the motor is removed from the driven apparatus is not persuasive. Selders teaches removal of the endshields form the housing (set 3 of the Cleaning) to thoroughly remove any foreign matter which may have accumulated in the motor, this step cannot be performed without disengageing all or part of the motor from the driven device. Selders and Perl teach that the motor should be disassembled (removed from the washing machine) to provide a "thorough" cleaning, removal of foreign matter which entered the motor through the ventilation openings, and replacing motor parts. Applicant's

argument that there is no motivation to combine Selders and Perl is not persuasive because Selders literally teaches the motivation of removing foreign matter and dirt that accumulates in the motor. Applicant's arguments regarding hindsight is not persuasive because the references themselves provide literal motivation, not the Applicant's disclosure. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971) holding that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. In the instant application the motivation is taken literally from Perl and Selders.

Conclusion

6. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl I.E. Tamai whose telephone number is (571) 272 - 2036.

The examiner can be normally contacted on Monday through Friday from 8:00 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Darren Schuberg, can be reached at (571) 272 - 2044. The facsimile number for the Group is (571) 273 - 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KARL TAMAI
PRIMARY EXAMINER

Karl I Tamai
PRIMARY PATENT EXAMINER
June 19, 2006